

JUDGE BUCHANAN

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ORIGINAL

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ALISON KENDALL DABNEY,

Plaintiff,

- against -

WILLIAM VANDERHEYDEN,

Defendant.  
-----X

**COMPLAINT**

Civil Action No. \_\_\_\_\_

U.S. DISTRICT COURT  
S.D. OF N.Y.  
DEC 9 PM 4:16

Plaintiff Alison Kendall Dabney, by her attorneys, for her complaint in this action alleges:

**PARTIES AND JURISDICTION**

1. Plaintiff Alison Kendall Dabney is an individual resident of the State of New York.
2. On information and belief, defendant William Venderheyden is an individual resident of the State of Connecticut.
3. This action arises under the Copyright Act of 1976, 17 U.S.C. §§ 101 et seq., and the common law.
4. Jurisdiction of this Court is proper under 28 U.S.C. §§ 1331, 1332(a), 1338(a) and (b), and 28 U.S.C. § 1367. The parties are of diverse citizenship, and the matter in controversy exceeds the sum or value of \$75,000.00 exclusive of interest and costs.

**FIRST CAUSE OF ACTION**

5. Plaintiff is the author of a musical work entitled "Peanut Butter" (the "Work").
6. Plaintiff has registered her claim to copyright in the words and music comprising the Work under United States Registration No. SRu 1-035-543 issued August 29, 2011.

7. Under Plaintiff's direction, the Defendant fixed and recorded performances of the Work by Plaintiff and is in possession of computer data files that record such performances (the "Data Files").

8. Plaintiff has repeatedly demanded that Defendant provide her with copies of the Data Files, and Defendant has refused to provide such Data Files to Plaintiff unless Plaintiff renounced her authorship rights in the Work, the Data Files, or both.

9. On information and belief, Defendant has publicly performed, reproduced, and actively induced reproduction of the Work without Plaintiff's authorization, including by posting a Data File comprising a copy of the Work on the Internet for free downloading.

10. The conduct of Defendant has damaged and injured Plaintiff's efforts to commercialize the Work.

11. The conduct of Defendant has been willful and malicious.

12. Defendant is liable to Plaintiff for copyright infringement.

## **SECOND CAUSE OF ACTION**

13. Paragraphs 1-12, above, are realleged and incorporated by reference as if set forth in full.

14. Defendant is in possession of copyrighted property that belongs to the Plaintiff.

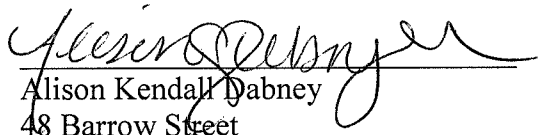
15. Defendant has refused repeated demands by Plaintiff that he provide her with copies of the Data Files comprising the Work and recorded performances of the Work by Plaintiff and data files that comprise copies of other original musical works that Plaintiff wrote and subsequently performed in Defendant's presence.

16. Defendant is liable to Plaintiff for misappropriation, unfair competition, and wrongful detention of Plaintiff's copyrighted property.

WHEREFORE, Plaintiff prays that the Court:

- (a) declare, adjudge, and decree that Defendant is liable to Plaintiff for copyright infringement under 17 U.S.C. § 501;
- (b) declare, adjudge, and decree that Plaintiff is the author of the Work;
- (c) grant preliminary and permanent injunctions restraining Defendant from engaging in any further acts constituting copyright infringement, unfair competition, or misappropriation;
- (d) order Defendant to deliver to Plaintiff copies of any and all data files that record any music written or performed by Plaintiff, including the Data Files that comprise the Work;
- (e) award Plaintiff compensatory damages as provided by law;
- (f) award Plaintiff statutory damages as provided by law;
- (g) award Plaintiff punitive damages as provided by law;
- (h) award Plaintiff her costs, disbursements, and attorneys' fees incurred in bringing this action; and
- (i) award Plaintiff such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
December 8, 2011

  
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